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Supreme Court, U.S.
FILED

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Case No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term

RAFFAELE M. PANDOZY, Ph.D.

Petitioner

V.

MARY ANN BEATY, Attorney; JAY PATTERSON, Former Justice of District 101, Individually and in his official capacity; LISA MATZ, Court of Appeals, Individually and in her capacity as Court Clerk STATE OF TEXAS; MARTIN LOWY, Justice od District 101, Individually and in his official capacity.
Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FITH CIRCUIT

Petitioner Raffaele M. Pandozy asks that this Court issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

QUESTIONS PRESENTED

Question No. 1

SHOULD ANY FEDERAL STATUTE THAT IS NOT REPULSIVE TO THE CONSTITUTION OF THE UNITED STATES BE STRICTLY ENFORCED BY ALL STATES AND FEDERAL COURTS IN ORDER TO SECURE THE JUST ADMINISTRATION OF JUSTICE AND EQUAL PROTECTION OF THE LAW FOR ALL CITIZENS OF THE UNITED STATES, OR CAN ANY JUDGE, STATE OR FEDERAL, AT HIS OR HER DISCRETION, IGNORE IT OR EVEN VIOLATE IT?

Question No. 2

CAN TWO CASES SUCH AS THE *ROOKER-FELDMAN'S* BE SO OVERLY USED TO BECOME A DISCIPLINE *NON SEQUITUR* TO DISMISS STATUTORY CASES SUCH AS THIS, INVOLVING THE FUNDAMENTAL RIGHT TO RECOVER DAMAGES FROM CRIMINAL OFFENDERS?

Question No. 3

IS FILING A BILL OF REVIEW OVER AN ALLEGED FRAUDULENT JUDGMENT, OR A SUIT IN FEDERAL COURT OVER ALLEGED VIOLATIONS OF

CONSTITUTIONAL RIGHTS, WITHOUT LEAVE OF COURT FROM STATE COURT CONSTITUTE CONTEMPT TO COURT PUNISHABLE WITH JAIL TERMS?

Question No. 4

SHOULDN'T THE SUPREME COURT OF THE UNITED STATES SET AN ANTECEDENT AN EXAMPLE OF GOOD ADMINISTRATION OF JUSTICE FOR ALL THE COURTS OF THIS COUNTRY BY REVIEWING THIS CASE JUST TO ESTABLISH THAT EVEN PRO-SE LITIGANTS THAT CANNOT AFFORD LEGAL FEES ARE ENTITLED TO DUE PROCESS AND EQUAL PROTECTION OF THE LAW?

LIST OF INTERESTED PERSONS

The undersigned appellant Pro-se certifies that the following listed persons have an interest in the outcome of this case.

A. Parties:

Petitioner: RAFFAELE M. PANDOZY, Ph.D.

Respondent: MARY ANN BEATY, Attorney; JAY PATTERSON, Former Justice of District 101, individually, and in his official capacity; LISA MATZ, Court of Appeals, individually and in her capacity as Court Clerk' STATE OF TEXAS; MARTIN LOWY, Justice of District 101, individually and in his official capacity.

B. Attorneys:

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CITATION TO OPINIONS BELOW

The decision of the United States Court of Appeal for the Fifth Circuit Pandozy v. Patterson, et al. No. 07-10919 affirming the lower Federal court is attached to this Petition as **Appendix A**

The decision of the lower court, U.S. District Court for the Northern District of Texas, Dallas Division and the Magistrate's Recommendations dismissing Pandozy's case are attached as **Appendix B** and **C.**

STATEMENT OF JURISDICTION

The Court of Appeals for the Fifth Circuit entered its judgment on March 11, 2008. The Court of Appeals

denied Dr. Pandozy's timely Petition for Rehearing on April 4, 2008. The order denying rehearing is attached as **Appendix D.**

The Court of Appeals for the Fifth Circuit entered a third judgment granting sanctions to Respondent for "frivolous appeal" on April 10, 2008. This judgment is attached as **Appendix E**

This court's jurisdiction is invoked pursuant to 28 U.S.C 1254, Dr. Pandozy having asserted below and asserting in this Petition the deprivation of rights secured by the United States Constitution.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the following statutes and Amendment of the Constitution:

a) For Compiling and executing a threatening Judgment, See: Appendix E, under TITLE 18, Part I, Chapter 13, Sec. 241.

If two or more persons conspire to conjure, oppress, threaten, or intimidate any person in a State, Territory Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the United States, or because of his having so exercised the same; or..... They shall be fined under this title or imprisoned not more than ten years, or both;

b) For Fraud upon the State Courts, See: Judgment Appendix E, under TITLE 18, Chapter 47, Sec. 1001

Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the United States knowingly and willfully

1) ***falsifies, conceal, or covers up by any trick, scheme, or device a material facts;***
2) ***makes any materially false, fictitious, or fraudulent Statement or representation;***
3) ***makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent Statement or entry;***

Shall be fined under this title or imprisoned not more than 5 years or both.

c) For Perjury in general , See: Judgment Appendix E, under TITLE 18, Chapter 79, Sec.

1621

1) Having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath States or subscribes any material matter which he does not believe to be true; or

2) In any declaration, certificate, verification, or Statement under penalty of perjury as permitted under section 1746 of title 28 United States Code, willfully subscribes as true any material matter

which he does not believe to be true;

Is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the Statement or subscription is made within or without the United States.

d) for Deprivation of Civil Rights and Conspiracy against a US Citizens, See: Judgments Appendix from E to N, under Title 42: Chapter 1983 of the United States Code.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia,

subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, immunities secured by the Constitution and laws, shall be liable to the party injured in an action of law, suit in equity, or other proper proceedings for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purpose of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

(e) For Obstructing justice; intimidating party, witness, or juror, See Judgments Appendix E to N, under TITLE 42, Chapter 1985 (2) of the United States Code.

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment or indictment lawfully assented to by

him. Or his being or having been juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or territory, with the intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons the equal protection of the laws;

f) For violation Plaintiff's 5th Amendment substantive right to due process, See Judgments Appendix E to N.

No person shall be .....deprived of life, liberty, or property, without due process of law.

g) For violating Plaintiff's 14th procedural right to due process, See Judgments Appendix E to N.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without the process of law.

ARGUMENT OF RELIANCE ON RULE 10

The original suit in Federal Court Pandozy v. Beaty, Patterson, Matz and Lowy, included among the defendant a lawyer, an officer of the court, (Beaty), two judges, (Hon. Patterson and Hon. Lowy), and a clerk.

Petitioner-Plaintiff sought monetary judgment against Beaty and declaratory judgments against the two judges. Petitioner is aware that judges enjoy immunity,* but invoked the supervisory powers of this court to establish right from wrong. As the history of this case exemplifies, Ms. Beaty and the judges have violated the above mentioned statutes and the 5th and the 14th constitutional amendments of the constitution, by depriving Petitioner of due process and equal protection of the law.

Petitioner relies for allowance of the writ on the following reasons:

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* In 1869 the Supreme Court confirmed the immunity of judges with the exception of those acting maliciously and corruptly. **See:** ***Randal v. Brigham 74 U.S. (13 Wall) 523, 535-36 (1869)***

1. This case belongs in Federal court, because this court has established that the *Rooker-Feldman* cases are *"judicial"* in nature and cannot apply to this case, which is *"statutory"*.

Rule 10 (a). The United States court of appeals has ..*"departed from the accepted and usual course of judicial proceedings [and] sanctioned such a departure by the lower court, as to call for an exercise of this Court's supervisory power.*

2. This case belongs in Federal Court because it involves violations of Federal Statutes ignored by State courts.

Rule 10 (b). *a state [and] United States court of appeals has decided an important Federal question in a way that conflicts with relevant decisions of this court.* Petitioner has not found a single case where the doctrine was applied to off-set the statutes invoked in this case. Any

such cases would make the doctrine repulsive to the constitution.

3. As the procedural history shows, the State court case

A) involved only one party;

B) it sought different relief; **See:** ***Fielder v. Credit Acceptance Corp.*****, 188 F.3d 1031, 1034 (8th Cir. 1999);** and ***Marks v. Stinson*****, 19 F 3d 873, 886 n.11 (3rd Cir. 1994)**

C) Petitioner did no have reasonable opportunity to raise any claims in State Court and have his case heard on the merits; ***Brown & Root, Inc. v. Breckenridge*****, No. 99-1831, 2000 Wl 526068 at *6 (4th Cir. May 2 2000);** ***Long v. Stonebank Devel Corp.*** **182 F 3d 548, 558 (7th Cir. 1999);** ***Dale v. Moore*****, 121 F3d 624, 626 (11th Cir. 1997)**

D) The case in State court was not decided on the

merits, no judicial decision was ever entered then and no "inextricable" relatedness was established later in Federal courts.

STATEMENT OF THE CASE

This case has now become a battle of wills: Under one hand, this court will find a repetitive disregard for substantive and procedural due process and numerous violations of State and Federal Statutes, on the part of State and Federal Courts; and on the other, Petitioner's determination to seek final justice as a matter of fundamental constitutional right.

Criminal offenses punishable under State and Federal law were committed in the underlying State case for which the offender was civilly liable for damages under State and Federal law, yet two courts have condoned the offenses dismissing the cases and the U.S.

Court of Appeal affirmed the dismissals. All courts have issued systematic decisions without opinions,

istence and determination to cover-up errors, bias, unfairness, further intimidating, discouraging Petitioner, and preventing the case from being heard on the merits.

It is important for this court to understand that at stake here is not only a just and equitable resolution of the underlying case, but the restoration of the now shattered faith of the Petitioner in the fairness and validity of the institution of justice and the Constitution of the United States of America as a whole. The persistent denial of justice to Petitioner is demonstrated by the history of the proceedings, which shows judges casually covering up for each other's misconduct, conspiring with each other, and repetitively punishing this pro-se

Petitioner with monetary sanctions and jail terms, in order to discourage him from demanding that his case be heard on the merits, which is his fundamental constitutional right.*

Petitioner believes that this case should be reviewed by this court because a "doctrine" has been used improperly to deny Petitioner's case to be heard on the merits.

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* Constitutional rights are often violated in State courts which is the reason why the Federal courts are overburdened with cases filed under Title 28, Sec. 1331. Each year 80% of the cases, approximately 145,000 cases are dismissed by the Federal Courts, according to the *Wake Forest Law Review, 2007,* and many because of the misapplication of the *Rooker-Feldman* doctrine.

The State case was illegally terminated and Petitioner forced to satisfy a judgments of $32,765.23. **See Appendix P.** In addition, this courts should review this case because it provides a precious assessment of the status of judicial conduct in State and Federal Courts, which poses the questions as to whether more supervisory and disciplinary control should be exercised bys this court over State courts in order to improve the administration of justice and protect the constitution of the United States of America.

Petitioner finds that Statute Title 28, Chapter 1257 conferring discretion of jurisdiction to review State cases to the Supreme Court of the United States should not so broadly apply as to systematically deny justice to so many U.S. Citizens, as long as State courts violate fundamental constitutional rights. Violations of the constitution

separate State and Federal courts as two separate worlds, a problem addressed in Petitioner's appeal brief thus precluding uniformity of the legal system (Page 38) and allowing State courts to set themselves above the law. This aspect of the law recalls Alexander's Hamilton's famous speech, setting the principles of good government and assuring the *interest of the union* over that of the State.*

For these reasons and for whatever little chances this case has to be reviewed by the highest court, Petitioner is obliged to denounce in details all of the abuses of State court.

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* It is for expressing this kind of criticism that the U.S. Court of Appeal punished once again Petitioner with $3,000 in sanctions. **See: Appendix E**

A. Course of Proceedings and Disposition in the Court Below

In April 1998, Petitioner's wife, a clever "gold digger" decided, after a short marriage of 11 months, to file for divorce for physical abuses in order to extort money from the husband. She found in Ms. Beaty, just the right partner for her scheme, a lawyer who helped her paint bruises on her body and produce false photos of body injuries, alter medical records, and file a tort for $250,000 for physical damages.

The presiding judge, Hon. Joe Spurlock II from Fort Worth, was aware of the falsity of the evidence, but refused to dismiss the tort and to grant the divorce even on the ground of a valid premarital agreement. The judge's first illicit act was to proceed with freezing

Petitioner's asset and sanctioning him in spite of clear proof of his innocence.

In addition to civil proceedings in three parts of the world, the husband had to defend himself in criminal courts and prove the falsity of the documents. In spite of his innocence he was subjected to three wrong imprisonments, all of which caused him emotional distress and tremendous financial losses.

After three years of litigation, being threatened with facing criminal charges, by the Grand Jury of Dallas, the two women gave up the fight.* The Hon. Joe

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* As of today it remains unexplained how the two ladies avoided criminal prosecution after Petitioner's Lawyer Mr. Eubank had pressed formal criminal charges and said ladies were supposed to appear before the Grand Jury of Dallas, Texas.

Spur5lock signed the divorce decree and a settlement for zero dollars. He then sealed the file containing the judge's numerous abuses and misconducts against Petitioner.

The two ladies violated **Texas Penal Code 37. 3 and Penal Code 37.9,** which carry 5 years in prison and ten years statute of limitation and several Federal statutes, but all courts condoned their criminal behavior and left their crimes untried and unpunished. The two ladies are still liable for damages under **Federal Code Title 42, chapter 1983, which calls for "an exercise of this Court's supervisory power for its enforcement.**

On about 2003, Petitioner filed a Complaint Pro-se for malicious prosecution in State court against the lawyer Ms. Beaty, in order to recover at least part of the $300,000 lost in legal fees during the divorce proceedings.

Ms. Beaty responded with a motion to dismiss and for sanctions falsely alleging that the criminal offenses had been litigated.

Ms. Beaty also used trickery and did not serve the motion in accordance with the **TRCP Rule 21a** of Civil Procedure. Ms Beaty prepared the judge's decision and committed more perjury and fraud upon the court making Statements she knew to be false. The judge blindly signed it, and in addition, added more sanctions with his hand writing to punish Petitioner even more. **See Appendix F: Judgment of Dec. 4, 2003.** At the hearings, Petitioner asked for a first time continuance in order to have a chance to respond to the motion, which was denied.

Upon dismissal Petitioner filed a motion for New Trial and to recuse the bias Judge under **TRCP18a(f),** for abuse of discretion because the judgment of December 4,

2003 was the result of the following violations:

a) **TRCP rules 21 and 21a** since Ms. Beaty's dismissal motion was not served at least three days before the hearing of December 4.

b) **TRCP Rule 252** because the presiding Judge, Hon. Jay Patterson did not have the discretion to deny a first motion for continuance.

c) **TRCP 70** because Ms. Beaty tricked and surprised Plaintiff, leading him to believe that she was on vacation and because of this reason she would not file or receive motions, while, in fact, she filed her motion for dismissal one day before Thanksgiving, Under this rule, Ms. Beaty should have been sanctioned but Judge Patterson ignored also this violation.

d) **TRCP 90** and **CPRC 10.002**(b), because Ms.

Beaty did not file a notice of intent, nor did she obtain an order to show cause prior the motion to dismiss.

e) **TRCP 13** and **CRCP 10.002(b).** Sanctions under these rules require special "evidentiary hearings" and Ms. Beaty did not advance a "good" cause as to why Plaintiff's petition was "frivolous" and why the case should have been dismissed. Instead she lied by stating in the judgment that the matters had been litigated without producing a speck of evidence.

f) **CPRC 11.057,** because Ms. Beaty averred that Plaintiff's was "vexatious" and would have required a separate motion two weeks after the inception of the case.

g) **TRCP 215,** because the judge invoked *sua*

sponte with his hand writing "rule" **TRCP 215** without referring specifically to the applicable section and subsection of the rule in the judgment.

h) **CPRC 10.002(c)**, because the judgment alleges lack of pleadings and the judge did not give an opportunity to Plaintiff to show that the pleadings were on file.

i) **CPRC 38.0001** and **38.003,** because Ms. Beaty was not entitled to attorney's fees and dismissal is not listed as a cause of action under these rules' categories.

j) **CPRC. 10.003 and 10.004,** because the judge was biased, and exceeded his authority by setting an unfair sanction of $15,000 toward discouraging and intimidating Plaintiff from taking an appeal, and thus usurped appellate jurisdiction.

k) **TRCP 18 (a) and (b)** because the judge refused to recuse himself voluntarily under specific request by Plaintiff and tricked Plaintiff by setting a hearing for the recusal, leaving Plaintiff to believe that his Motion For a New Trial had been granted thus purposely creating the misunderstanding for the motion to expire by operation of law.

Beaty's Violatioins Under Federal Law

Ms. Beaty as an officer of the court has violated **Statutes Title 18, Part I, Chapter 13, Sec. 241; Title 18, Chapter 47, Sec. 1001; Title 18, Chapter 79, Sec. 1621; Title 42, Chapter 1983 and 1985,** and the **5th and 14th Amendment rights to due process.**

These numerous violations show not only abuse of process, but malice and total disregard for the law on the

part of the State judge Patterson.

In ***Geoffrey N. Fieger v. John D. Ferry et.al*** , **U.S. Appellate Court 6th Circuit No. 05-1295, Sept. 26, 2006,** Justices Siler and Clay reversed an order of Michigan Supreme Court that denied Fieger's motion to recuse. Much like this case, Fieger sought Declaratory Judgment under **Title 42, Sec. 1983** for depravation of civil rights and due process infringements. The decision reads clearly that the judges behaved as if they were "above the law" and refused to recuse themselves when requested -- even when it was clear that they could not render an impartial verdict.

This case is a bit more serious, since three judges covered up criminal behavior and teamed with alleged felon Beaty in a symbiotic manner like racketeers. The Magistrate's recommendations **Appendix C**, failed to

acknowledge the facts and to express the need to uncover the motives of Judge Patterson's and Judge Lowy's intimidation and obstruction of justice, which will never be known if dismissal is sustained .*

On February 2, 2004, Hon. John Ovard of 1st Administrative Judicial District of Dallas, Texas denied Plaintiff's motion to recuse. **See Appendix G:**

On Feb 3rd, 2004, Plaintiff filed a Notice of Appeal with the Fifth District Court of Appeals of Texas at Dallas together with a Docketing Statement for the Recusal Order.*

On April 26, 2004, The Fifth District Court of

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* It turned out that the clerk, Lisa Matz, because of an obscure reason, lost the document, and of course there was no way that the incident could have been investigated.

Appeals issued an opinion dismissing the Appeal for failing to file the docketing Statement. **See: Appendix H.** In fact the docketing Statement had mysteriously disappeared.

In response, Petitioner filed a second copy of the notice of appeal along with the "Docketing Statement", but the 5th District of the Court of Appeal of Texas did not correct the error and found another way to dismiss the appeal based on a wrong computation of days and declared a want of prosecution, as if the error never happened. **See: Appendix I**

On August 23, 2004, Plaintiff filed a Writ of Error with the Supreme Court of Texas in order to correct the clerical error.

On November 12, 2004, the Supreme Court of Texas denied Petitioner's Writ of Error also without an

opinion. **See: Appendix J**

On Jun 6, 2006, Plaintiff filed a Bill of Review, Case No. 06 06008, under **CPRC 16.051** and **TRCP 329b (f)** in an attempt to reinstate the case and retained Lawyer Jimmy Verner to pursue it.

On March 22, 2007, following this lawyer's suspicious negligence, Plaintiff withdrew the motion for a Bill of Review in order to file a new suit in Federal Court under **Title 28, Chapter 1331.**

On May 7, 2007, Ms. Beaty's filed a motion for No-Evidence Summary Judgment in State Court. The argument was MOOT, since the Bill of Review had been withdrawn, but the presiding judge Hon. Martin Lowy dismissed the Bill of Review by default* and awarded Ms.

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* Petitioner responded to the motion affirming that there was no

Beaty $3,000 in legal fees. **See: Appendix K**

On May 14 and on May 17, 2007, Ms. Beaty filed four motions at the same time against this Petitioner: 1) To Turn Over Property toward the execution of the December 4, 2003 Judgment; 2) Declaring Plaintiff a Vexatious Litigant; 3) For Contempt to court for filing a Bill of Review without leave of court; and 4) For Attachment.

On July 17, 2007, Judge Lowy, ignored Petitioner's motion for continuance due to a medical emergency and

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Bill of Review on file and agreed with the clerk to cancel the hearing.

granted three of the four motions with sanctions by default violating due process. **See Appendix L, M, N.**

On July 23, 2007 Petitioner was arrested and put on trial for contempt to court for filing the Bill of Review and for filing suit in the Federal Court. The State court found Petitioner guilty and sentenced him to 30 days in jail and $500.00 fine in violation of due Process of Constitutional Criminal laws. **See: Appendix O**

On August 13, 2007 Petitioner filed a motion to sever the illegal judgment of December 4, 2003, but Hon. Lowy denied it.

On Sept. 10, 2007 Plaintiff satisfied all the outstanding State court's Judgments amounting to $32,765.23, **See: Appendix P.**

Under State law Judge Lowy violated the following

major rules:

A) He issued a final dismissal judgment **Appendix K** with sanctions and legal fees for filing a Bill of Review, which was technically withdrawn and inexistent. No affidavits of costs or legal fees were presented at the hearing. The judge granted a final judgment and sanctions of $3,000 in violation of **TRCP 239a and 241. See: Peralta v. Heights Med. Ctr., Inc. 485 U.S. 80, 108 S. Ct 896 (1988).** This outcome was to be predicted because the hearing was placed on the dismissal docket, rather than a trial docket even though Petitioner had filed an answer.

B) All three default judgments violated **TRCP 239a and TRCP 306a (3)** for they were issued without notice. Subsequently on July 17, 2007, Judge Lowy signed another Default Judgment for Turnover of Properties,

See: Appendix L, which did not exist, thus without affidavit and sufficient evidences. Again, this order, signed under the same pattern of judicial abuses, was aimed at a forceful execution of the December 4, 2003' illegal judgment, and at the deprivation of property in violation of due process. The Judge signed this order without jurisdiction over the listed property and evidences of "actual fraud" allegations that such property had been transferred after the judgment of December 4, 2003 to another party, or the required affidavit to support the fraud.

The judge violated **TRCP 279** because:

1) Petitioner was not given an opportunity to question the jurisdiction of the judge over property listed in the judgment that did not belong to him or to oppose the lack of evidences.

2) No evidences of ownership or transfers of property were before the court.

3) Petitioner was not given an opportunity to prove that there was no intent of the alleged "actual fraud".

C) The Judge violated **TRCP 279** because there was no ground for recovery, which should have been waived. **See: T.O. Stanley Boot Cov. Bank of El Paso 847 S.W.2d 218- 222-23 (Tex. 1992)**

D) The judge violated **TRCP 274** because the evidences must be measured against the allegations presented. Not even sufficient circumstantial evidences were presented to assume that there was "intent" to commit "actual fraud". **See: Equistar Chem. 2007 WL 12991 61 at 4; and Orterberg V. Peca,12 s.W. 3d at 55.**

E) The order Declaring Raffaele M. Pandozy a Vexatious Litigant, signed on July 17, 2007 violated

Chapter 11.051 of the Texas Civil Practices & Remedies Code, which requires that defendant file a motion for "vexatiousness" within 15 days from the filing of Plaintiff's lawsuit. The deadline for filing a vexatious motion would have expired long before the filing of the amended petition of December 1, 2003 in State court. Paradoxical as it sounds, this common tactic is typical of lawyers such as Ms Beaty who accuse the opponent of doing the very wrong she perpetuated to deflect attention of the judge. On the other hand, judges create the injustice and then cover it up with decalrign the litigan vexatious. This tactic is proven to work very well against pro-se litigants, who often cannot afford to hire lawyers and try desperately to assert their legal rights.

F) The order of Attachment signed on July 17, 2007 by Hon. Lowy is legally adopted for property and not

for persons. Several cases can be cited to support Petitioner's immediate and wrongful arrest without a warrant in violation of **TRCP 692.** This rule required Respondent to file an affidavit stating the facts citing the law being violated and the offense of contempt along with an application for a Writ of attachment. The judge exceeded his judicial powers again by executing the wrongful arrest. Under Texas law the Judge was limited to issuing an order to show cause, stating the reasons Petitioner was arrested and held in contempt without a Jury trial. **See: City of San Antonio v. Singelton, 858 S.W. wd 411**

G) The order Holding Respondent in Contempt for Commitment to County Jail, Signed on July 23, 2007 was malicious and illegal. Petitioner had already been sanctioned with $3,000 for filing a Bill of Review. **See:**

Appendix K, but the judge endeavored to punish him also with 30 days in county jail and $500.00 fine. Assuming that the Bill of Review is a separate action and not an equitable procedural remedy, the right to file a Bill of Review without leave exists when the bill is brought for error of law and violation of due Process, which was the case. **See: Ricker v. Powell, 100 US 104.** A special license for filing a Bill of Review relating to errors of law or decree is not necessary. **See: Davis v. Speiden, 104 US 83** and **Kimberly v. Arms, 40 Fed. 554**. Permission from the court would be on the discretion of the court only for newly discovered evidences, **See: Thomas v. Brockenbough 10 Wheat 146.**

H) Judge Lowy appointed a visiting judge and had an instant trial without jury in violation of **Article II, Sec 2 of the Constitution,** which requires

the appointment of a jury. Plaintiff was not asked whether he wanted to forfeit the jury trial. He also violated **Gov. Code 74.052 and 74.053** for failing to announce that Hon. Kent Sims, the presiding judge, was a retired, visiting judge, so that Plaintiff could not raise objections.

I) Plaintiff then filed a Request for Finding and Conclusions of Law. **(TRCP 296)** Judge Lowy responded, citing no applicable laws, or special procedure for sucha criminal trials **(TRCP 296).** Lowy responded, citing no applicable laws justifying the verdict. The answer was only to reiterate that the Bill of Review was a "separate action", never theless not a "new action", as the judgment of December 2004 specifies.

Petitioner could not find a single case where a party in a lawsuit goes to jail for filing a Bill of Review. This abuse

of power on the part of the courts should be corrected witrh a precedent.

Under Federal Law

Judge Lowy violated Plaintiff's civil rights of due process, conspired to obstruct justice, covered up for his predecessors and fostered Ms. Beaty's criminal behavior, by inflicting wrongful imprisonment. He violated

a) **Art. III, Sec. 2 of the U.S. Constitution**.

b) **Title 42, Sec. 1983,**

c) **Title 42, Sec. 1985** and

d) **The 5th and 14th Amendment of the U.S. Constitution** Depriving Petitioner Due Process of law.

U.S. District Court Proceedings

A. The Unconstitutionality of the Rooker-Feldman

Doctrine.

On November 14, 2004, Plaintiff filed a Complaint with the U.S. Court Northern District of Texas at Dallas, No. 3-07-CV-845 against Ms. Beaty, Hon. Jay Patterson, Lisa Matz, the clerk of the Fifth Court of Appeals who lost the docketing Statement, and Martin Lowy seeking damages and declaratory relief under **Statutes: Title 18, Part I, Chapter 13, Sec 241; Title 18, Chapter 47, Sec.1001; Title 18, Chapter 79, Sec. 162; Title 42, Chapter 1983 and 1985 (2); and the 5th and 14th Amendment of the U.S. Constitution.**

On August 3rd, 2008 The Federal Magistrate issued his recommendations for dismissal of the case based on the *Rooker-Feldman* doctrine. **See: Appendix C**

On Aug. 10, 2007, Plaintiff filed a Response to Magistrate' Recommendations proving the misapplication

of the *Rooker-Feldman Doctrine.*

On August 13, 2007, Judgment of Dismissal was entered by District Court Judge Hon. Ed Kinkeade accepting the Magistrate's recommendations, **See Appendix B.**

On November 29, 2007, Petitioner filed his brief of Appellant in the U.S. Court of Appeals for the 5th Circuit.

On March 11, 2008, the U.S. Court of Appeals for the 5th Circuit denied the appeal and issued no written opinion. **See: Appendix A**

On March 17, 2008 Respondent filed a motion for Frivolous Appeal.

On March 24, 2008 Petitioner filed a motion for Rehearing

On April 4, 2008, the U.S. Court of Appeals for the 5th Circuit denied the motion for Rehearing. **See**

Appendix D

On April 2008 the U.S. Court of Appeal for the 5th Circuit granted the Motion for Frivolous Appeal and awarded $3,000 in legal fees to Respondent. **See Appendix E**

B. Basic criminal violation of State and Federal Statutes

1. The fact that Ms. Beaty as a lawyer and officer of the courts has committed criminal offenses in violation of Texas Penal Code 37.03 and 37.09 as well as Fraud upon the courts under Federal Statute Title 18, Chapter 47, Sec. 1001 is tacit and undisputed.

2. It is tacit and undisputed that the judgment dismissing the initial lawsuit against Ms. Beaty of

December 4, 2003 and blindly signed by Hon. Jay Patterson contains falsity, because none of the matters constituting the body of the lawsuit for malicious prosecution, falsification of documents, fraud upon the court and perjury had never been litigated on the merit or referred to in the judgment. Therefore, Hon. Jay Patterson violated Federal Statutes Title 42, Chapter 1983 under the color of law and 1985(2).*

3. It is tacit and undisputed that the judgment of December 4, 2003, magnified and signed by Hon. Jay Patterson is illegal because it intimidates, conspires and oppresses the "free exercise or enjoyment of constitutional

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* The Civil Rights Act of 1866 and 1871 unequivocally provided penalties and granted victims of state-sponsored violations of civil rights the right to sue for damages.

rights of due process and equal protection of the law. Therefore Hon. Patterson violated Federal Statute, Title 42, Chapter 1983 under the color of law and 1985 (2); the 5th and the 14th Amendment of the Constitution.

4. It is tacit and undisputed that all judgments signed by Hon. Martin Lowy to enforce the December 4, 2003 judgment and to further punish Petitioner violate Federal Statute Title 42, Chapter 1983 under the color of law and 1985 (2); the 5th and 14th Amendment of the Constitution.*

5. It is tacit and undisputed that the decision from

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* In ***Duncan v. Louisiana, 391 U.S. 145 (1968),*** the Supreme Court held that the 14th Amendment expressly bound State Courts to abide by Federal law, which incorporates provisions of the Bill of Rights.

the 5th Circuit of the U..S. court of Appeals in affirming State and Federal decisions without reservation, or written opinion avoids the merits of the case and further violates the 5th and 14th Amendment of the constitution that guarantee due process and equal protection of the law.

6. It is Tacit and undisputed that the second decision from the 5th Circuit of the U.S. court of Appeals, granting sanctions for $3,000 to Respondent for frivolous appeal violates the 1st Amendment Right of the U.S. Constitution to Free Speech.*

ARGUMENT ON QUESTION No. 1

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* Petitioner in his appeal was not trying ridiculously to strip the U.S. Supreme Court of its powers.

The continued and systematic violations of due process and the sustained intimidation methods to discourage a Pro-se Plaintiff- Appellant-Petitioner from pursuing his right to justice, shows a total disregard for constitutional rights.

Congress by passing Statute Title 42, Chapter 1983 wanted to express the legitimate right of a victim of crime to recover damages from the offender. The U.S. District Court and the 5th Circuit of the U.S. Court of Appeal did not justify the denial of such right. Rather, the absence of a valid argument and a canon of interpretation and applicability of the *Rooker-Feldman* doctrine make their decision invalid and improper.

In ***Exxon Mobil Corp. et al v. Saudi Basic Industries*** **544 U.S. 280, 2005,** Judge Ginsburg said:

Since Feldman, this court has never applied Rooker-Feldman to dismiss an action for want of jurisdiction. However, the lower Federal courts have variously interpreted the Rooker-Feldman doctrine to extend far beyond the contours of the Rooker-Feldman cases, overriding Congress' conferral of Federal Court Jurisdiction... I would provide the creature with decent burial in a grave adjacent to the resting place of the Rooker-Feldman doctrine.

Petitioner in his brief has cited several cases, which confirm the universal inapplicability of these two landmark cases. The original legislative intent of Federal law must be preserved, or tremendous disunity between the two judicial branches is inevitable. In the state case Pandozy v. Beaty no Federal allegations were at issue as to require Federal overruling under the *Rookman-*

Feldman doctrine.*

a) Since Statute, Title 28, Chapter 1331 provides Federal courts with jurisdiction of all cases arising under the statutes and articles of the constitution, the question for the appeal court was to determine whether violations of constitutional rights occurred in this case and failed to do so.

b) The Federal Magistrate, the Federal Judge and the Federal appeal judge all failed to advance a Canon of interpretation and applicability of the *Rooker-Feldman* doctrine to this case makes their cedision erroneous;

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* Obviously, preservation of the legislative intent requires special consideration in Judicial interpretations because any inaccurate statutory construct may jeopardize the *nomos* and the integrity of the Constitution.

c) In addition, they failed to refer to the different nature of this case -- this case being a civil case aiming at the recovery from criminal acts as per statutory right and congressional intent;

d) The procedural history proves that this case has never been litigated on the merits, which is Petitioner's constitutional right. In spite of it, all illegal State judgments have been satisfied. Therefore, there is no judicial task to be assumed by Federal courts except the application of the statutes for crimes being committed;

e) Because the intent of congress written in the Statute Title 42, Chapter 1983 confers to victims of crimes under color of law to recover damages from the offenders, the application of the statute is constitutional regardless of the existence of the *Rooker-Feldman* doctrine.

g) Without the discretionary review from the U.S.

Supreme Court this case has no remedy at law.

In affirming the validity of the doctrine, the courts below have adduced that this case is jurisdiction of the U.S. Supreme Court, while same has Stated that it cannot invoke jurisdiction when there are applicable statutes that provide constitutional remedies, which makes up for the inaccuracies of **Title 28, Sec. 1257. (See: Sec. 13 of the Judiciary Act of 1789)** In the landmark case **Marbury v. Madison, 5 U.S. (1 Cranch) 137,** it was established that the Constitution was "the fundamental law of the country." From the publication **Judicial Review in the United States'** abstract of the time, the opinion reads:

> *It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases must of*

necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each. So if a law be in opposition to the Constitution; if both the law and the Constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the Constitution; or conformably to the Constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. This is the very essence of judicial duty.

This well Stated principle of justice applies universally in all courts of law and to any decision or judgment charged with subjectivity and lawlessness.

The court is merely an interpreter and a guardian of the law...."

ARGUMENT ON QUESTION No.2

Petitioner is not a Lawyer, but is a scholar of Linguistics familiar with hermeneutical interpretation of texts. In his appeal he made arguments about the literal interpretation of the *Rooker-Feldman* Doctrine and Statutes *vis a vis* Title 28, 1257 and Title 28, 1331. He expressed a honest opinion on them all, reporting also from authorities such as "*Legal Hermeneutics*" from Dusilla Cornel, from Univ. Cal. Press, 1992 and Kareel Lewellyn, 3 Vand. Legal Review, 1950; *Concept of Law,* by H.L.A Hart, Claredon Press, 1961; Edwin Montefiore Borchard, Wm S, Hein Publ., 2000; and *Reassessing Federal Jurisdiction,* by J. F. Preis, Wake Forest Review, 2007.

Respondent has had the audacity to file a motion

for frivolous appeal, because, in her opinion, Petitioner tried to change the *Rooker-Feldman* doctrine, as if such doctrine was dictated by God.

Respondent violated USFR 39d(1), for failing to file a bill of costs.

Most astonishingly, the motion was granted with sanctions of $3,000 to Respondent by the 5th District U. S. Court of Appeals. **See; Appendix E,** in full violation of the 1st Amendment Right top Free Speech. Petitioner is entitled to advance criticism in an open forum of law or any new statutory theory without fear of incurring into sanctions.

ARGUMENT ON QUESTION No. 3

On June 23, 2006. Pretitioner filed a bill of Review to correct the illegal judgment of December 4, 2003. Judge

Lowy placed the motion on the dismissal docket, rather than on the trial docket -- with the clear intention to dispose of it quickly.*

After learning of this fact, Petitioner decided to withdraw the bill of review and file in Federal Court. In spite of the withdraw, Respondent filed a motion for No Evidence Summary Judgment and for Sanctions, which were fully granted by the judge.

In addition, Respondent filed a motion for contempt and Petitioner was sent to jail for the same reason under the false assumption that that a Bill of Review is a

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* The time allocated for Dismissal matters is normally no more than 15 Minutes. Therefore, the intentions of the judge were clear and premeditated. In addition it was clear that the bill of review was not to be considered as new cause of action.

"separate action" -- yet not a new action as the order and judgment of December 4, 2003 enjoins. **See Appendix F, Page 2, first line.**

However unsubstantial the Bill of Review was never heard and the decision remains unfair and contradictory. The responsibility of Judge Lowy was to ascertain with evidentiary hearing whether the judgment of December 4, 2003 was legal and whether the charges for contempt were appropriate. He not only failed to do so, but exercised "duress" in sentencing Petitioner to 30 days in jail.

Assuming that the Bill of Review is a separate action and not an equitable procedural remedy, by no means is a new lawsuit. However, since it is an equitable remedy, the right to file it without leave exists when error of law or violation of due process exists. **See: Ricker v.**

Powell, 100 US 104. A special licence for filing a Bill of Review or any action which relates to errors of law or decree is not necessary. **See: Davis v. Speiden, 104 US83** and **Kimberly v. Arms, 40 Fed. 554.** Permission from the court would be on the discretionary only for newly discovered evidences, **See: Thomas v. Brockenbough 10 Wheat 146.**

The revealing factor is that the Judge responded to a request for findings and conclusions of law with empty words and citing no laws of antecedents, **See: Appendix R,** which makes the decision for contempt totally unconstitutional.

ARGUMENT ON QUESTION No.4

There can be no doubt that fabricating false evidences, altering medical records, defrauding the courts

in order to extort $250,000 in a divorce case is a criminal offense in any State and in any country of the world.

The wife and her friend lawyer Ms Beaty have never been charged or prosecuted criminally for these crimes, nor have the two cases against them been heard on the merits, yet they have been allowed to inflict tremendous damages, not only to the Petitioner, but to the system of justice as a whole.

The chronology of events in this case shows substantial evidence of excessive abuse and duress of State and Federal Courts against pro-se litigants, who for economic reasons and driven by ethical principles of justice embark in a pro-se litigation. A rule seems to be instituted in this country that all pro-se litigants, no matter their level of education, endure in merit less cases. Under this wrong presumption, judges set themselves

casually above the law aiming at reducing their work load to the detriment of the U.S. Constitution. This fact not only shows negligence and insensitivity, but selfishness and a type of judicial Darwinism that makes a mockery of the system of justice and the constitution of the United States of America.

If the State of the Judicial system in this country can simply be exemplified by the chronology of this case, the answer is that there is much work to do to perfect it:

1. The preoccupation of the first presiding State judge, Hon. Joe Spurlock was to seal the file after inflicting upon Petitioner tremendous damage and try to make him go away as well as protecting his protégé lawyer from criminal prosecution and disbarment.

2. The preoccupation of the second presiding State judge, Hon. Jay Patterson, was to protect the reputation

of his fellow judge Hon. Joe Spur5lock, who illegally dismissed the case against the lawyer and unjustly punish a defenseless pro-se Petitioner with $24,000 in sanctions plus the highest interests.

3. The preoccupation of the third State judge, Hon. Martin Lowy, was to further penalize pro-se Petitioner with $32,765.23 in sanctions and send Petitioner to Jail for filing a Bill of Review, all to protect the reputation of his fellow judges who preceded him.

4. The preoccupation of the first Federal judge, Hon. Ed Kinkeade, was to dismiss the Federal case of a pro-se litigant against a lawyer and two fellow State judges, Patterson and Lowy, avoid the trouble and protect their State Court's reputation by applying the doctrine (*Rooker-Feldman)* incorrectly thus setting another erroneous precedent that off-sets a Federal Statute

against criminal acts.

5. The preoccupation of the judges of the 5th District of the U.S. Court of appeal was to dispose an uncomfortable case by affirming all the preceding decisions without a written opinion -- a typical sign of justice denied without reason or humility, since the decision was to remain unpublished.

The sequence of these events shows that there is a systematic violation of ethical principle of impartiality and denial of justice to pro-se litigants in this country in State and Federal courts, which do not contribute to the fairness of the system. These litigants, often poor, are not-at-all vexatious and, as citizens of the U.S. of America, have the right to the equal protection of the law. Statistics show also that thousands of lawsuits filed by pro-se litigants are being dismissed right at the stage of

the complaint under the general judges' belief that they are merit less.

It is a clear and evident fact that the principles of ethical justice on which the U.S. Constitution was founded are being forgotten and obliterated by negligent judges who adopt routine non-committal decisional behavior instead of the application of ethical principles of justice thus inevitably repeating endless judicial errors -- all to the detriment of the judicial system in this country.

The mute decision of U.S. Court of Appeals endures the judicial partiality against pro-se litigants, which was definitely a factor from beginning to the end. This is just one of thousands of cases dismissed prematurely in defiance of constitutional rights, as the case heard by the United States Supreme Court appealed in the Second Circuit. *Swierkiewicz v. Sorema N.A.*, 534 U.S. (2002),

It is also clear that Rule 12(b)(6) is just as popular among Federal judges to stop premature even to the most meritorious cases. Such rule has been invoked also in this case. **See: Appendix C,** which does not conform with the U.S. Supreme Court's decision in *Swierkiewicz v. Sorema,* where it was settled that the Plaintiff can prevail without establishing a prima facie case and the judge's decision to dismiss a lawsuit prematurely without discovery is unfair and wrong because it deprives Plaintiff of due process.

Conclusion

a) Both *Rooker-Feldman* cases had been litigated on the merits in State Courts, while the present case has never been litigated in any courts;

b) Petitioner was not given a chance to state the case in Federal court;

c) This body has established that the doctrine becomes repulsive to the constitution if used to off-set applicable Federal Statutes;

c) A controversial doctrine cannot be allowed to off-set the intent of congress embodied in Federal Statute Title **42, Chapter 1983** that entitles victims of crime to be compensated.

Therefore the Supreme Court must set a precedent of fair justice for the rest of the country by defining with specificity the application of a doctrine in cases such as this, which makes said doctrine repulsive to the constitution of the united States.

In other words, this court must establish what comes first: the controversial "doctrine" of *Rooker-Feldman* or the constitution.

Ultimately, this body must decide whether jail

terms are equitable punishment for filing a Bill of Review especially in particular circumstances such as this.

Faced with these questions, this court may uphold the decision of the 5th District of the U.S. Court of Appeal, which means that State courts will continue to violate constitutional rights, or reverse it to create an antecedent for the many judges to be more diligent and respectful of the universal right to a fair justice.

Relief Sought

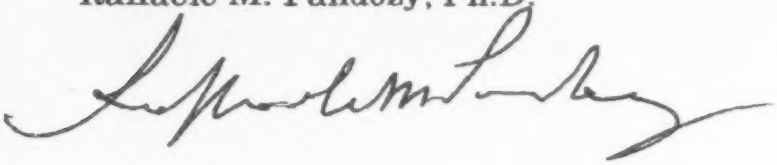
Petitioner prays that upon reviewing this Petition, this body will reverse the decision of the U.S. Court of Appeals of the 5th Circuit and allow due process of justice to take

its course in accordance with the laws of the U.S. Constitution.

Respectfully Submitted:

August 30, 2008

Raffaele M. Pandozy, Ph.D.



August , 30, 2008

Case No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term

RAFFAELE M. PANDOZY, Ph.D.
Petitioner

V.

MARY ANN BEATY, Attorney; JAY PATTERSON, Former Justice of District 101, Individually and in his official capacity; LISA MATZ, Court of Appeals, Individually and in her capacity as Court Clerk STATE OF TEXAS; MARTIN LOWY, Justice od District 101, Individually and in his official capacity.
Respondents

APPENDIX
TO THE PETITION FOR A WRIT OF CERTIORARI TO
THE U.S. COURT OF APPEALS FOR THE FITH CIRCUIT

Raffaele M. Pandozy, Ph.D.
(Petitioner Pro-Se)
2312 Grand Ave/A
Dallas, Texas 75215
Cell Phone: (917) 400-1393
Email: RMPandozy@Aol.com

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

NO 07-10919

Summary Calendar

RAFFAELE M. PANDOZY Ph.D.

Plaintiff- Appellant

v.

MARY ANN BEATY; JAY PATTERSON, Former Justice of District 101, Individualkly and in his official capacity; LISA MATZ, Court of Appeals, Individually and in her official capacity as Court Clerk, STATE OF TEXAS; MARTIN LOWY, Justice of DFistrict 101, Individually and in his official capacity.

Daefendants- Appellees

Appeal from the United Statres District Court

For the Northern District of Texas

USDC No. 3:07-CV-845

A

Before REAVLEY, SMITH, And DENNIS, Circuit Judges

Per curiam:*

The Judgment of the district court is affirmed for the reasons stated in the magistrate judge's report and recommendation dated August 3, 2007

AFFIRMED

Filed March 11, 2008

- Pursuant to 5th Cir. R. 47,5 the courthas determined that this opinion should not be published and isnot precedent except under the limited circumstances set forth in the 5th Cir. R. 47.5.4.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
TEXAS
DALLAS DIVISION

RAFFAELE M. PANDOZY

V.3-07-CV-845-K

MARY ANN BEATY, ET AL

JUDGMENT

Conclusions and Recommendation of the United States Magistrate Judge in this case.

It is therefore ORDERED, ADJUDGED AND DECREED that the Defendant's motions to dismiss be, and they are hereby, **GRANTED** and Plaintiff's complaint is dismissed for want of jurisdiction.

IT IS FURTHER ORDERED that Plaintiff's motion for stay of judgment (Doc.6); Beaty's motion for sanctions (Doc. 11) and Beaty's supplemental Rule 11 motion (Doc. 17) are **DENIED** as moot. SO ORDERED. Signed this 13' day of August, 2007.

ED KINKEADE
UNITED STATES DISTRICT JUDGE

B

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

RAFFAELE M. PANDOZY

v.

3-07-CV-845-K MARY ANN BEATY,

ETAL

REPORT AND RECOMMENDATION

OF THE UNITED STATES MAGISTRATE JUDGE

Pursuant to Special Order No. 3-251, this case was referred to the undersigned magistrate judge for pretrial management, including the issuance of recommendations with respect to dispositive motions. In this report and recommendation the magistrate judge addresses the following motions and responses thereto

C

and other relevant documents and papers:

1. Mary Ann Beaty's Motion to Dismiss (Doc. 13)

2. State Defendants' Motion to Dismiss (Doc. 14)

FACTUAL BACKGROUND: The interaction between Plaintiff on the one hand and the named Defendants on the other commenced more than nine years before the present action was filed. Because the conduct which took place prior to May 14, 2007, is material to the disposition of the Defendants' above referenced motions, the court summarizes the prior salient events.[1]

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[1]The facts are derived from the allegations contained in Plaintiff's complaint and attached exhibits and from copies of court records which have been included as exhibits to the parties' motions and/or responses.

Pandozy was named as the respondent in a petition for divorce filed by his then wife, Annette Mumphrey Pandozy, in the 303' District Court of Dallas County, Texas, in No. DF-98-5833-V. The action was filed by Mary Ann Beaty on April 8, 1998, and was ultimately terminated with the issuance of a divorce decree on June 6, 2000.

Thereafter Pandozy filed *a pro se* petition in the 101St District Court of Dallas County against his ex-wife's attorney, Mary Ann Beaty, in No. 03-5712-E. On December 4, 2003, the presiding judge, Honorable Jay Patterson, signed an order sustaining Defendant's motion to dismiss and dismissing Pandozy's petition with prejudice and awarding $9,000.00 in attorney's fees to Ms. Beaty. *See* Exhibit A to Beaty's Rule 11 Motion (Doc. 11).

On December 17, 2003, Pandozy filed a motion for new

trial and for recusal. *See* Exhibit B attached to Plaintiff's complaint (Doc. 1). On December 18, 2003,Judge Patterson declined to recuse himself and requested that the Presiding Judge of the First Administrative Region assign a judge to hear the motion to recuse. On February 2, 2004, the Presiding Judge of the 1St Administrative Judicial District, Honorable John Ovard, denied Pandozy's motion to recuse.[2] On February 3, 2004, Plaintiff filed a notice of appeal from the February 2, 2004, order denying his motion to recuse. *Id.* at Exhibit E.[3] On April 2, 2004, the clerk of the Fifth Court of Appeals notified Plaintiff of deficiencies in his attempt to perfect an appeal. *Id.* Exhibit F. On April 25, 2004, the Fifth Court of Appeals dismissed the appeal for want of prosecution. *Id.* Exhibit G. On May 3, 2004, Pandozy filed a motion for rehearing, *Id.* Exhibit H, and in an

opinion issued on July 2, 2004, the appellate court withdrew its prior opinion and held that the motion to recuse was moot and *sua sponte* dismissed the appeal for want of jurisdiction. *Id.* Exhibit I. Pandozy then filed a petition for review in the Supreme Court of Texas which was initially stricken on August 27, 2004, and was thereafter denied by the court on November 12, 2004, followed by an order on December

31, 2004, denying his motion for rehearing. *See* Exhibit B to Beaty's Rule 11 motion.4

On June 23, 2006, Pandozy filed a petition for bill of review in the 101" District Court attacking the judgment filed on December 4, 2003. *See* Exhibit C to

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'Copies of these documents together with additional documents filed in the 101St District Court are included in Exhibit C to Plaintiff's complaint.

Plaintiff's complaint. On May 9, 2007, the presiding judge, Honorable Martin Lowy, issued a final judgment dismissing the case with prejudice and awarded costs and attorney's fees to Ms. Beaty. *See* Exhibit G to Beaty's Rule 11 motion.

'The notice erroneously identifies the order as having been denied by Judge Keith Anderson.

FINDINGS AND CONCLUSIONS: It is well settled that federal district courts lack jurisdiction to entertain collateral attacks on state judgments under the *Rooker/Feldman* doctrine.' "If a state trial court errs [its] judgment is not void, it is to be reviewed and corrected by the appropriate state appellate court. Thereafter, recourse at the federal level is limited solely to an application for a writ of certiorari to the United

States Supreme Court." *Liedtke v. State Bar of Texas,* 18 F.3d 315, 317 (5' Cir.) reh. denied, cert. denied 513 U.S. 906 (1994). As made clear by the court in *Liedtke a* complainant cannot circumvent this jurisdictional bar by couching his claims in the context of a civil rights action.

It is also clear that this jurisdictional bar extends not only to those actions which on their face seek collateral review of a state court's actions and judgment but also to those complaints which assert constitutional claims that are inextricably intertwined with a state

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[4]Plaintiff apparently filed another notice of appeal on May 20, 2005, which the Fifth Court of Appeals dismissed for want of jurisdiction. *See* Exhibit B, Doc. *'See Rooker v. Fidelity Trust Co.,* 263 U.S. 413, 44 S.Ct. 149 (1923) and *District of Columbia Court of Appeals v. Feldman* 460 U.S. 462, 103 S.Ct. 1303 (1983).

court's decision. *Hale v. Harvey*, 786 F.2d 688, 691 (5' Cir. 1986).

The claims asserted by Pandozy leave no doubt that this court has no jurisdiction to entertain conduct or consider them. His allegations directed against the state court judges, Jay Patterson and Martin Lowy, and against the clerk of the Fifth Court of Appeals, relate specifically and directly to their conduct and judgments filed in his initial state action in No. 03-5712-E against Mary Ann Beaty and his subsequently filed petition for a bill of review in case No. 06-06008

To the extent that Plaintiff seeks to invoke this court's jurisdiction over his claims leveled against Ms. Beaty, a private attorney, predicated on an alleged conspiracy between herself and the aforementioned state officials, it is clear that the same are inextricably

intertwined with the state court judgments.' Moreover, as evidenced by his complaint Plaintiff seeks to present the identical claims against Ms. Beaty which he asserted in his amended petition in No. 03-5712-E and in his petition for bill of review in No. 06-06008, embellished only by his claim that her prior conduct violated his civil rights. *See* Plaintiff s verified complaint at page 8 incorporating in his complaint the entirety of his pleadings in the state court actions.' Therefore, this court is likewise without jurisdiction over his claims against this non-public defendant.

RECOMMENDATION:

'Although the state defendants also correctly assert that they are entitled to immunity against Plaintiff's claims for monetary damages, *See* State of Texas et al's Motion to Dismiss at pages 3-4, the same

need not be addressed in light of the absence of jurisdiction in this court.

'In light of the Supreme Court's recent decision in *Bell Atlantic Corp. v. Twombly*, U.S., 127 S.Ct. 1955 (2007), abandoning the "no set of facts" standard set out in *Conley v. Gibson*, 355 U.S. 41, 45-46, 78 S.Ct. 99 (1957), in addressing Rule 12(b)(6) motions, it is questionable whether Pandozy's conspiracy allegations state a cognizable claim were his complaint not otherwise barred by *Rooker/Feldman*.

'Pandozy's action in bringing a federal lawsuit following an unsatisfactory conclusion of a divorce proceeding is hardly novel in this district. *See Hale v. Harvey, supra*, and *Jordan v. Hall*, 275 F.Supp. 2d 778 (N.D. Tex. 2003) and *Nag)) v. George*, 2007 W.L. 2122175 (N.D. Tex. July 23, 2007).

For the foregoing reasons it is recommended that the District Court enter its order granting the Defendants' motions to dismiss and that Plaintiff's complaint be dismissed for want of jurisdiction.

It is further recommended that all other pending motions in this case, to wit: Plaintiff's motion for stay of judgment (Doc. 6); Beaty's motion for sanctions (Doc. 11) and Beaty's supplemental Rule 11 motion (Doc. 17) be denied as moot.

A copy of this recommendation shall be transmitted to Plaintiff and counsel for Defendants.

SIGNED this 3rd day of August, 2007

WM. F. SANDERSON, JR.

UNITED STATES MAGISTRATE JUDGE

NOTICE

In the event that you wish to object to this

recommendation, you are hereby notified that you must file your written objections

within ten (10) days after being served with a copy of this recommendation. Pursuant to Douglass v. United Servs. Auto Ass'n, 79 F.3d 1415 (5' Cir. 1996) (en bans), a party's failure to file written objections to these proposed findings of fact and conclusions of law within such ten-day period may bar a de novo determination by the district judge of any finding of fact or conclusion of law and shall bar such party, except upon grounds of plain error, from attacking on appeal the unobjected to proposed findings of fact and conclusions of law accepted by the district court

IN THE UNITED STATES COURT OF APPEAL

FOR THE FIFTH CIRCUIT

No. 07-10919

RAFFAELE M PANDOZY, Ph.D.

Plaintiff – Appellant

MARY ANN BEATY; JAY M PATTERSON, Former Justice of District 101, Individually and in his official capacity; LISA MATZ, Court of Appeals, Individually and in her official capacity as Court Clerk; STATE OF TEXAS; MARTIN LOWY, Justice of District 101, Individually and in his official capacity

Defendants - Appellees

(Filed Apr. 04, 2008)

Appeal from the United States District Court for the

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Northern District of Texas, Dallas

ON PETITION FOR REHEARING

Before REAVLEY, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing is denied

ENTERED FOR THE COURT

NORMAN REAVLEY, United States Circuit Judge

IN THE UNITED STATES COURT OF APPEALS

No. 07-10919

RAFFAELE M PANDOZY

Plaintiff – Appellant

v.

MARY ANN BEATY; JAY M. PATTERSON, Former Justice of District 101, Individually and in his official capacity; LISA MATZ, Court of Appeals, Individually and in her official capacity *as* Court Clerk; STATE OF TEXAS; MARTIN LOWY, Justice of District 101, **Individually and in his** official capacity

Defendants – Appellees

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Appeal from the United States District Court for the Northern District of Texas, Dallas

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Before REAVLEY, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the motion for damages in the amount of

$3,000.00 under Rule 38 is GRANTED

NORMAN REAVLEY, United States Circuit Judge

Filed April 10, 2008

NO.03-05712-E

RAFFAELE M. PANDOZY, IN DISTRICT

Plaintiff

VS. COURT NUMBER 101ST

MARY ANN BEATY, DALLAS COUNTY, TEXAS

Defendant

ORDER SUSTAINING PLAINTIFF'S MOTION TO DISMISS FOR FAILURE TO STATE A CAUSE OF ACTION AND FOR LACK OF PLEADINGS AND GRANTING INJUNCTION

On December 4, 2003, the Court heard the Plaintiffs Motion to Dismiss for Failure to State a Cause of Action and for Lack of Pleadings. After due consideration of the pleadings, the Motion, the Response,

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the arguments of counsel and the evidence submitted at the hearing, this Court is of the opinion that such Motion should be **SUSTAINED.**

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss for Failure to State a Cause of Action and for Lack of Pleadings is **SUSTAINED** and this cause is hereby **DISMISSED WITH PREJUDICE to his refiling the same or related actions.**

The Court finds that Plaintiff failed to timely file an amended petition setting forth a viable cause of action as required by the Court previously. The Court further finds that Plaintiff has engaged in a repetitive series of lawsuits against Defendant without a valid basis for his bringing such actions and that he has repeatedly sought to relitigate or to attempt to relitigate matters, claims

or issues determined or concluded by final determination against the same defendant. The Court

further finds that the pleadings and the evidence supports a finding that Plaintiff has abused the legal

process without a legitimate cause of action against Defendant and for the purpose of harassment.

IT IS FURTHER ORDERED that should Plaintiff desire to bring a new cause of action against this Defendant, he enjoined from filing any lawsuit against Defendant herein until such time as he files a motion for leave to bring suit against this Defendant and obtains the permission of this Court to file such suit upon showing of a genuine issue or cause of action unrelated to the matters disposed of herein. Upon the filing of such motion for leave to file, Plaintiff is hereby ORDERED to attach his pleadings, together with any supporting documentation, as exhibits to his motion for leave and

shall notice Defendant of the date and time of the hearing at a date and time mutually convenient with Defendant.

IT IS FURTHER ORDERED that [added by judge's hand writing] *based on Rules13 and 215 of the Texas Rules of Civil Procedures* Defendant shall have a judgment for attorney's fees against Plaintiff in the sum of [added by judge's hand writing] *Nine Thousand and No/100* Dollars ($9,000), which judgment shall bear interest at the highest legal rate allowed by law until paid in full, for which let writ of execution issue.

IT IS FURTHER ORDERED that should Plaintiff desire to appeal this matter, he is to post [the word "post" was crossed by the judge and substituted by the word "pay". Added by judge's hand writing] *pay to defendant the sum of Fifteen Thousand and No/100* Dollars ($15,000) *For*

attorney's fees [the word "bond" crossed by the judge] for any appeal to the court of appeals or to the Texas Supreme Court; [added by the judge's hand writing] *If any such appeal by Plaintiff that is unsuccessful.*

All costs of court shall be assessed against Plaintiff.

Signed on: December 4, 2003.

Jay Patterson – JUDGE PRESIDING

N0. 03-05712-E

RAFFAELE M. PANDOZY, Ph.D.	IN DISTRICT
V.	COURT 101
MARY ANN BEATY	DALLAS
	COUNTY, TX

ORDER DENYING PLAINTIFF'S MOTION TO RECUSE

On February 2, 2004, the Honorable John Ovard, Presiding Judge for the First Administrative Judicial District, heard the Plaintiffs Motion to Recuse the trial judge, the Honorable Jay Patterson.

After due consideration of the pleadings, the arguments of parties and counsel and the evidence submitted at the hearing, this Court is of the opinion that such Motion should be **DENIED.**

IT IS THEREFORE ORDERED that Plaintiffs Motion to Recuse the trial judge, the Honorable Jay Patterson, is in all things **DENIED.**

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Signed on: CA) on February 2, 2004

JOHN OVARD
PRESIDING JUDGE,
AMINISTRATIVE
JUDICIAL DISTRICT

DISMISSED; Opinion issued April 26, 2004

In The
(Court of Appeals
Fifth District of Texas at 'Dallas

No. 05-04-00130-CV

RAFFAELE M. PANDOZY, Ph.D. , Appellant

V .

MARY ANN BEATY, Appellee

On Appeal from the 101' Judicial District Court
Dallas County, Texas
Trial Court Cause No. 03-05712-E

MEMORANDUM OPINION

Before Justices Morris, Whittington, and James

Appellant's docketing statement and the clerk's record have not been filed. In a notice dated February 2, 2004, appellant was directed to file a docketing statement within ten days. Appellant was instructed

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that failure to respond could result in the dismissal of this appeal. Appellant did not file a docketing statement. Thereafter, in a letter dated April 2, 2004, appellant was again directed to file a docketing statement and written documentation that "he has requested the clerk's record and made payment arrangements for the clerk's record." Appellant was instructed that failure to respond, within ten (10) days, with the docketing statement and the written documentation regarding clerk's record would result in the dismissal of this appeal without further notice from the Court. Appellant has failed to respond.

On the Court's own motion, this appeal is

DISMISSED for want of prosecution.

See TEX.R. APP. P. 42.3(b).

PER CURIAM

040130F.P05

DISMISSED; Opinion issued June 2, 2004

In The Court of Appeals
Fifth District of Texas at
Dallas

No. 05-04-00130-CV

RAFFAELE M. PANDOZY, PH.D., Appellant

V .

MARY ANN BEATY, Appellee

On Appeal from the 101st Judicial District Court
Dallas County, Texas
Trial Court Cause No. 03-05712-E

MEMORANDUM OPINION ON REHEARING

Before Justices Morris, Whittington, and James

We withdraw our opinion of April 26, 2004. This is now the opinion of the Court. Appellant filed notice of appeal regarding the denial ofhis motion to recuse the trial judge. Appellant had filed his motion to recuse in conjunction with a motion for new trial, requesting recusal *if* the

new trial were granted. Pursuant to rule 18a(c), the recusal motion was heard before the trial judge considered appellant's motion for new trial. *See* TEX. R. CIV. P. 18a(c). The regional presiding judge denied appellant's motion to recuse.

Appellant filed his motion for new trial on December 17, 2003. On February 23, 2004, this Court requested any orders signed by the trial court since December 4, 2003. There is no order on appellant's motion for new trial. Accordingly, Appellant's motion is considered overruled by operation of law as of March 1, 2004. *See* TEX. R. APP. P. 329b(c).

Appellant conditioned his motion to recuse on the granting of his motion for new trial. Appellant's motion for new trial has been overruled by operation

of law. Accordingly, appellant's motion to recuse is moot. Absent a live controversy, we have no jurisdiction over this appeal. *See Miga v. Jensen,* 96 S.W.3d 207, 212-13 (Tex. 2002); *City of Euless v. Dallas/Fort Worth Intl Airport Bd.*, 936 S.W.2d 699, 702 (Tex. App.-Dallas 1996, writ denied). Accordingly, on the Court's own motion, this appeal is **DISMISSED** for want of jurisdiction. *See* Tex. R. App. P. 42.3(a).

PER CURIAM

040130F.P05

RAFFAELE M. PANDOZY, PH.D.

v.

MARY ANN BEATY

04-0762

SUPREME COURT OF TEXAS

2004 Tex. LEXIS 1183

November 12, 2004, Order Pronounced

NOTICE: [*1]

DECISION WITHOUT PUBLISHED OPINION

PRIOR HISTORY: Dallas County; 5th district (05-04-00130-CV, SW3d, 06-02-04). Pandozy v. Beaty, 2004 Tex. App. LEXIS 4930 (Tex. App. Dallas, June 2, 2004)

OPINION:

Petition for review denied, as redrafted.

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NO. DC-06-06008

RAFFAELE M. PANDOZY IN THE DISTRICT COURT

VS. 101 ST JUDICIAL DISTRICT

MARY ANN BEATY DALLAS COUNTY, TEXAS

FINAL JUDGMENT

On this day came on to **be** considered Mary Ann Beaty's No Evidence Motion for Summary Judgment and Motion to Dismiss and for Sanctions, upon consideration of the same, the Court is of the opinion that the Motions should be granted, it is therefore

ORDERED that this action be and is hereby dismissed with prejudice wit all costs taxed against the plaintiff Raffaele M. Pandozy.

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IT IS FURTHER ORDERED that Mary Ann Beaty is awarded as sanctions against plaintiff Raffaele M. Pandozy attorney's fees of 3,000.00.

All relief not granted herein is denied.

For all of which let all necessary process issue.

Signed this __ day of May 2007.

MARTIN LOWY

Judge Presiding

NO. DC-03-05712-E

RAFFAELE M. PANDOZY IN THE DISTRICT COURT 101

VS. JUDICIAL DISTRICT

DALLAS COUNTY TEXAS

MARY ANN BEATY

TURNOVER ORDER

On this day came on for hearing Mary Ann Beaty's Application for Turnover Order. Defendant appeared by her counsel of record. Raffaele M. Pandozy, Ideas For Sale, Inc., IFS, Inc. and IFS Corrective Fitness Systems, Inc. were deify served with notice of the hearing and did not appear

After reviewing the pleadings and papers on file, and hearing the evidence and arguments of counsel, the Court finds that:

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On December 4, 2003, a judgment in the amount of $9,000.00, plus post judgment interest at the rate of highest legal rate allowed by law until paid, plus attorney's fees of $15,000.00 in the event of **appeal,** was rendered against defendant and in favor of defendant in the Action, *Raffaele M Pandozy vs* ***Mary Ann Beaty,*** No.DC-03-05712-E, in the 101' Judicial District, Dallas County, Texas;

The above described judgment was appealed by Raffaele **M. Pandozy** and the $15,000.00 contingent attorneys fees are due under the Judgment;

Mary Ann Beaty is the holder of the judgment;

Raffaele **M.** Pandozy owns certain property rights not exempt from the claims of creditors which cannot be levied on or

attached by ordinary legal process.

Raffaele M. Pandozy owns two patents issued to him by the United Stated Patent _Office:

June 2006, #20060116262- Biodynamic apparatus for performing correct sit-ups and leg-up exercises and methods;

April 2006, #20060073956-Motorized inversion gravity machine for the body.

Raffaele M. Pandozy fraudulently transferred the above described patents to IFS, Inc. and/or IFS Corrective Fitness Systems, Inc.

Raffaele M. Pandozy is the owner, in law or equity of IFS, Inc., IFS Corrective Fitness, Inc. and Ideas For Sale, Inc.

The purpose of IFS, Inc., IFS Corrective Fitness, Inc. and Ideas for Sales, Inc is to enable Raffaele M. **Pandozy to commit fraud on his creditors;**

The above described property is Not exempt from attachment Execution or seizure in satisfaction Of the judgment against Raffaele M. Pandozy and Mary Ann. Beaty is Entitled to recover here reasonable Attorney's fee in connection with this application. The Court therefore concludes that Defendant's Application for Turnover Order should be granted on the terms and conditions set forth

below. It is therefore ORDERED AND that Raffaele **M. Pandozy, Ideas** For Sale, Inc, IFS, Inc.. IFS Corrective Fitness, Inc. shall turn *over* the following listed property, to the *Dallas* County Sheriff, **together with true and** correct **copies *of all* documents or records relating to the said property:**

A. United States Patent No. 20060116262

B. United States Patent No. 20060073956

C. All moneys owned by the following persons;

(1) Raffaele M. Pandozy

(2) **Ideas** For Sale, Inc.

(3) IFS, Inc.

(4) IFS Corrective Fitness, Inc.

All asssets owned by:

Raffaele M. Pandozy, Ideas For Sale, Inc., IFS, Inc.

IFS Corrective Fitness, Inc.

FURTHER ORDERED, that if the said property is continuous or repetitive in its benefits to Raffaele M. Pandozy, Ideas For Sale, Inc, IFS, Inc., and IFS Corrective Fitness, Inc. shall continue to turn over said benefits to the Dallas Comity Constable along with true and correct copies of all documents and records concerning such property and benefits;

IT IS FURTHER ORDERED that the Sheriff od Dallas County, Texas, take possession of the property ordered to be delivered to the him/her, levy on such

property as under writ of execution, and, after giving notice of sale, sell the property at public auction to the highest bidder for cash, applying the proceeds of the sale topayment of the expenses of sale and court costs, with the balance paid over to Mary Ann Beaty for crediting on the judgment of this court dated December 4, 2003, and this Turnover Order. In so doing, the Sheriff shall perform all duties and procedures as required by the Texas Rules of Civil Procedure for sale under writ of execution. FURTHER ORDERED, that Raffaele M. Pandozy, Ideas for Sale, Inc., IFS, Inc. and IFS Corrective Fitness, Inc. shall provide Mary Ann Beaty an accounting of each turnover of Property and benefits to the

Constable by mailing a statement of the things turned over to the Constable to J. Michael Weston,

BENNETT, WESTON & LaJONE, P.C.,

1750 Valley View Lane, Suite 120, Dallas,

TX 75234 within five (5) days of each turnover;

FURTHER ORDERED, that Mary Ann Beaty shall recover from Raffaele M. Pandozy its , reasonable attorney's fees in the amount of $ 1,500. All relief not granted herein is denied.

Signed this 17 day of July, 2007.

Martin Lowy (Judge Presiding)

NO. DC-03-05712-E

RAFFAELE M. PANDOZY IN THE DISTRICT

COURT 101st

VS JUDICIAL DISTRICT

MARY ANN BEATY DALLAS COUNTY TEXAS

ORDER DECLARING RAFFAELE M. PANDOZY A VEXATIOUS LITIGANT

On this day came on to be considered Mary Ann Beaty's Motion to Declare Raffaele M. Pandozy a Vexatious Litigant, Raffaele M. Pandozy having been duly given notice of the hearing and not appearing, and the Court considering the evidence supporting the Motion to Declare Raffaele M. Pandozy a Vexatious Litigant is of the opinion that

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Raffaele M. Pandozy should be declared a vexatious litigant pursuant to Chapter 11 of the Texas Civil Practices & Remedies Code, it is therefore

ORDERED that Raffaele M. Pandozy shall not file any lawsuit in any Court of the State of Texas without first providing the administrative judge of the Court in which Raffaele M. Pandozy seeks to file a lawsuit a copy of this Order Declaring Raffaele M. Pandozy a Vexatious Litigant and obtaining written permission of such administrative judge to file the lawsuit.

Signed this 19 day of July 2007.

Martin Lowy (Judge Presiding)

NO. DC-03-05712-E

RAFFAELE M. PANDOZY IN THE DISTRICT COURT

VS.

101ST JUDICIAL DISTRICT

MARY ANN BEATY

DALLAS COUNTY, TEXAS

ORDER OF ATTACHMENT

BE IT REMEMBERED that on the 17th day of July, 2007, there came before the Court for a hearing on Mary Ann Beaty's Motion for Contempt in this cause complaining of Raffaele M. Pandozy. The Court called motion

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for a hearing and Raffaele M. Pandozy, although duly served with a citation and notice to show cause commanding Raffaele M. Pandozy to appear at said hearing, has failed to appear. The Court is of the opinion that an Order of Attachment should be issued.

IT IS ORDERED that an attachment shall forthwith issue to any sheriff or other proper peace officer or constable of any County in Texas as follows:

YOU ARE HEREBY COMMANDED TO ARREST RAFFAELE M. PANDOZY AT 2312 GRAND AVENUE, APT. A, DALLAS, TEXAS 75215, AND IMMEDIATELY BRING RAFFAELE M. PANDOZY BEFORE THE JUDGE OF THE 1ST JUDICIAL

DISTRICT COURT OF DALLAS COUNTY, TEXAS, ANYTIME BETWEEN THE HOURS OF 8:30 A.M. AND 3:00 P.M. ON ANY DAY MONDAY THROUGH FRIDAY DURING THE TIME THE COURT IS IN SESSION, TO SHOW CAUSE, IF ANY, WHY HE SHOULD NOT BE HELD IN CONTEMPT AND BE PUNISHED FOR CONTEMPT OF THIS COURT FOR VIOLATIONS OF THE COURTS ORDER OF DECEMBER 4, 2003 AND FOR FAILURE TO COMPLY WITH THE SUBPOENA DUCES TECUM TO ATTEND A HEARING IN THIS COURT SERVED ON HIM ON JULY 13, 2007.

IT IS FURTHER ORDERED THAT IF Raffaele M. Pandozy, Respondent, is arrested

on the weekend or before or after the stated business hours of the Court, or at a time the Court is not in session, Raffaele M. Pandozy shall be placed in the

Dallas County Jail or in the County Jail of the County in which the Raffaele M. Pandozy is arrested and delivered to the Court on the next day the Court is in session OR permitted to post bond in the amount of $10,000.00 and ORDERED to appear at 9:00 A.M. the next day the Court is in session.

IT IS FURTHER ORDERED that the Mary Ann Beaty recover $1,500.00 as reasonable attorney's fees.

SIGNED THIS 17 day of July, 2007.

Martin Lowy, (Judge Presiding)

NO. DC-03-05712-E

RAFFAELE M. PANDOZY IN THE

V. 101 JUDICIAL

MARY ANN BEATY DISTRICT

DALLAS

COUNTY TEXAS

ORDER HOLDING RESPONDENT IN CONTEMPT

AND FOR

COMMITMENT TO COUNTY JAIL

On July 23, 2007 the Court heard Mary Ann Beaty's Motion for Contempt.

Appearances

Movant, Mary Ann Beaty, appeared in person and

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through attorney of record, J. Michael Weston, and announced ready for trial.

Raffaeele M. Pandozy appeared in person and, having waived the right to counsel, announced ready for trial.

Jurisdiction

The Court, after examining the record and the evidence and argument of counsel, finds that it has jurisdiction over the subject matter and the parties in this case. All persons entitled to citation were properly cited.

Record

The record of testimony was duly reported by the court reporter for the 101st Judicial District Court.

Findings

The Court finds that Rafelle M. Pandozy

is guilty of separate violations of the order signed on December 4, 2003, and states in relevant part as follows:

"IT IS FURTHER ORDERED that should Plaintiff desire to bring a new cause of action against this defendant, he {is) enjoined from filing any lawsuit against defendant herein until such time as he files a motion for leave to bring suit against this defendant and obtains the permission of this Court."

The court further finds that Rafelle M. Pandozy has failed to comply with and has violated the provisions of the order as follows:

1.

Raffaele M. Pandozy has filed on June 23, 2006, a petition for bill of review in case number 06-06008-E, styled, "Pandozy vs.

Beaty," which is a separate suit.

2.

Raffaele M. Pandozy has filed on or about May 12, 2007, a suit in the United States District Court, Northern District of Texas, Dallas Division, Case

No. 07-CV-0845, styled, "Rafelle M. Pandozy vs. Mary Ann Beaty, et.al.."

The Court specifically finds that Respondent is in contempt for each separate violation enumerated above.

Relief Granted

IT IS ADJUDGED that Respondent, Raffaele Martini Pandozy, is in contempt for each separate violation enumerated above.

Criminal Contempt

IT IS ORDERED that punishment for each separate violation is assessed at a fine of $500.00 and confinement in the county jail of Dallas County, Texas, for a period of 30-days.

IT IS THEREFORE ORDERED that Respondent is committed to the county jail of Dallas County, Texas, for a period of 30-days for each separate violation enumerated above.

IT IS ORDERED that each period of confinement assessed in this order shall run and be satisfied concurrently. The court probates 15-days confinement in jail, conditioned on Raffaele M. Pandozy not violating further the December 4,

2003 order of this court for a period of one-year from the date of his release.

Issuance of Process

IT IS ORDERED that all writs and other process necessary for the enforcement of this order be issued.

Relief Not Granted

All relief requested and not expressly granted Is denied. SIGNED on July 23, 2007

M. Kent Sims, (Judge Presiding)

NO. DC-06-06008

RAFFAELE M. PANDOZY IN THE DISTRICT COURT

VS. 101ST JUDICIAL DISTRICT

MARY ANN BEATY DALLAS COUNTY, TEXAS

PAYMENT OF SUMS DUE

Defendant Mary Ann Beaty states that Raffaele M. Pandozy has paid all moneys due to Mary Ann Beaty under the Judgment in this action dated May 9, 2007.

Respectfully Submitted

BENNET, WESTON & LaJONE, P.C.

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CASHIER'S CHECK FROM

WELLS FARGO BANK

In the amount of $32, 765.23

From Raffaele M. Pandozy.

To the order of Bennet, Weston & Lajone, P.C.

Signed on September 10, 2007

NO. DC-03-05712-E

RAFFAELE M. PANDOZY IN THE DISTRICT COURT

VS. 101ST JUDICIAL DISTRICT

MARY ANN BEATY DALLAS COUNTY, TEXAS

1. FINDINGS OF FACT AND CONCLUSIONS OF LAW

2. On July 23, 2007, came for hearing Mary Ann Beaty's Motion for Contempt. After considering the pleadings, the evidence, the argument and

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briefs from counsel, the Court in response to a request from Raffaele M. Pandozy, makes its findings of fact and conclusions of law as follows: FINDINGS OF FACT

3. Movant, Mary Ann Beaty, appeared in person and through attorney of record, J. Michael Weston, and announced ready for trial.

4. Raffaele M. Pandozy appeared in person and, having been informed of his rights to remain silent, to consult with an attorney or if too poor to employ an attorney one would

be appointed for him and of the range of punishment for contempt, Pandozy waived the right to counsel, and announced ready for trial.

5. The Court, after examining the record and the evidence and argument of counsel and of Pandozy, finds that it has jurisdiction over the subject matter and the parties in this case. All persons entitled to citation were properly cited.

6. Raffaele M. Pandozy violated Court's Order signed on December 4, 2003, which states in relevant part as

follows:

> "IT IS FURTHER
>
> ORDERED
>
> that should Plaintiff desire to bring a new cause of action against this defendant, he [is] enjoined from filing any lawsuit against defendant herein until such time as he files a motion for leave to bring suit against this defendant and obtains the permission of this Court."

7. court's decision. *Hale v. Harvey*, 786 F.2d 688, 691 (5' Cir. 1986).

8. Raffaele M. Pandozy has filed on June 23, 2006, a petition

for bill of review in case number 06-06008-E, styled, "Pandozy vs. Beaty, which is a separate suit.

9. Raffaele M. Pandozy has filed on or about May 12, 2007, a suit in the United States District Court, Northern District of Texas, Dallas Division, Case No. 07-CV-0845, styled, "Raffaele M. Pandozy vs. Mary Ann Beaty, et al."

10. The filing of the two described lawsuits violated the Court's Order of December 4, 2003.

CONCLUSIONS OF LAW

11. The filing of the two described

lawsuits constitutes separate acts of contempt of court.

12. Raffaele Martini Pandozy is in contempt for each separate violation enumerated above.

13. Punishment for each separate violation is assessed at a fine of $500.00 and confinement in the county jail of Dallas County, Texas, for a period of 30-days.

14. Raffaele M. Pandozy is committed to the county jail of Dallas County, Texas, for a period of 30-days for each separate violation enumerated above.

15. Each period of confinement assessed in this order shall run and be

satisfied concurrently, and the total amount of the fine is assessed at $500.00.

16. The Court probates 15-days of the confinement in jail, conditioned on Rafaele M. Pandozy not violate further the December 4, 2003, order of this court for a period of one-year from the date of his release.

SIGNED this 11 day of August, 2007.

M. Kent Sims, Judge Presiding

Retired Judge 31st Judicial District Court

Sitting for Judge of 101st Judicial District Court Sitting for Judge 101st Judicial District Court, Dallas County, Texas